

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DANIEL W. DANCER,

Plaintiff,

v.

G. STEVEN HAMMOND, et al.,

Defendants.

CASE NO. C10-5393BHS

ORDER DECLINING TO
ADOPT REPORT AND
RECOMMENDATION

This matter comes before the Court on the Report and Recommendation of the Honorable J. Richard Creatura, United States Magistrate Judge (Dkt. 7). The Court has considered the report and recommendation and the remaining record and hereby declines to adopt the report and recommendation (Dkt. 7) and re-refers this action to the magistrate judge for consideration of Plaintiff Daniel W. Dancer's ("Dancer") motion to proceed in forma pauperis for the reasons stated herein.

On June 4, 2010, Dancer filed a motion to proceed in forma pauperis in this action involving alleged civil rights violations under 42 U.S.C. § 1983. Dkt. 1. The case was referred to Magistrate Judge Creatura. On June 7, 2010, the Court mailed Dancer a letter regarding deficiencies in his application to proceed in forma pauperis. Dkt. 2. On June 9, 2010, the Court noted that the mail was returned as undeliverable. Dkt. 3. On August 18, 2010, Dancer filed a notice of change of address. Dkt. 4. On August 23, 2010, the Court issued an order requiring Dancer to cure the defects in his application to proceed in forma

1 pauperis on or before September 17, 2010. Dkt. 5. On September 1, 2010, the Court noted
2 that the copy of the order sent to Dancer was returned as undeliverable. Dkt. 6. On October
3 5, 2010, the Magistrate Judge issued a report and recommendation stating that the action
4 should be dismissed for Dancer's failure to keep the Court informed of his address. Dkt. 7.
5 On November 12, 2010, Dancer filed objections to the report and recommendation
6 informing the Court that he is now registered with the Court's Electronic Filing System to
7 receive notification by email of documents filed in this action and filed a new application to
8 proceed in forma pauperis. Dkts. 8 & 9.

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10 The Court concludes that Dancer's application to proceed in forma pauperis should
11 be considered. Accordingly, the Court declines to adopt the report and recommendation and
12 re-refers this action to the magistrate judge for consideration of Dancer's application to
13 proceed in forma pauperis.

14 Therefore, the Court hereby **ORDERS** as follows:

- 15 (1) The Court declines to adopt the Report and Recommendation (Dkt. 7);
16 (2) This action is re-referred to the magistrate judge for consideration of Dancer's
17 application to proceed in forma pauperis (Dkt. 9).

18 DATED this 6th day of January, 2010.

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22 BENJAMIN H. SETTLE
23 United States District Judge
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